UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/080,764	02/22/2002	Shiu-Shin Chio	7436-0042	1200

7590 08/11/2004

E. Victor Indiano, Esq.
INDIANO & VAUGHAN, PA
Suite 850
One North Pennsylvania Street
Indianapolis, IN 46204

EXAMINER	
FOREMAN, JONATHAN M	
ART UNIT	**PAPER NUMBER**
3736	

DATE MAILED: 08/11/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/080,764	CHIO ET AL.	
	Examiner	Art Unit	
	Jonathan ML Foreman	3736	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *28 April 2004* .

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-12 and 14-24* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-12 and 14-24* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

11)☐ The proposed drawing correction filed on _____ is: a)☐ approved b)☐ disapproved by the Examiner.

If approved, corrected drawings are required in reply to this Office action.

12)☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

13)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____ .

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

14)☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).

a) ☐ The translation of the foreign language provisional application has been received.

15)☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ .
4) ☐ Interview Summary (PTO-413) Paper No(s). _____ .
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: .

DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

2. Claims1 – 12 and 14 – 24 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 4,880,013 to Chio in view of U.S. Patent No. 5,899,855 to Brown.

In regards to claims 1 – 12 and 14 – 24, Chio discloses a method and computer program for monitoring the cardiovascular condition of a patient. A data acquisition device acquires cardiovascular condition information including a data stream (Col. 7, lines 50 – 64). Data is transmitted from the acquisition device to a remote processor (Col. 9, lines 14 – 16), which is capable of performing data processing and data storage functions. The processor derives at least one cardiovascular parameter from each of the series of cardiovascular measurements, and correlates the parameters to create a trend report capable of being displayed (Col. 10, lines 49 – 51). Chio fails to disclose the graphic display being located at a healthcare provider site remote from the acquisition device. However, Brown discloses a method of remotely monitoring the cardiovascular (Col. 8, lines 48 – 54) condition of a patient. A data acquisition device (58) transmits acquired data to a remote processor (54), which transmits to a remote healthcare provider (55, 60, 62). Brown further discloses a patient identifier, a healthcare provider identifier and an association between the two identifiers such that patient data is transmitted to the appropriate healthcare provider only (Col. 12, lines 36 – 53; Col. 12, line 66 – Col. 13, line 27). It would have been obvious to one having ordinary

skill in the art at the time the invention was made to modify the method of Chio et al. with the step of transmitting data from the remote processor to a graphic display located at a healthcare provider site, as taught by Brown, to allow a healthcare provider to remotely monitor the cardiovascular condition of a patient.

Response to Arguments

3. Applicant's arguments filed 4/28/04 have been fully considered but they are not persuasive. Applicant has asserted that neither Chio et al. or Brown disclose the step of establishing a patient identifier unique to a particular patient, and establishing a healthcare provider identifier unique to a particular healthcare provider, and establishing an association between a particular patient identifier and at least one particular healthcare identifier. However, Brown in fact discloses such a step. Brown discloses establishing a patient identifier unique to a particular patient (Col. 12, line 50 – 51), establishing a healthcare provider identifier unique to a particular healthcare provider (Col. 12, line 51 – 53), and establishing an association between a particular patient identifier and at least one particular healthcare identifier (Col. 13, lines 15 – 20). Additionally, Applicant has asserted that neither Brown nor Chio et al. disclose a remote processor that derives at least one cardiovascular parameter from a series of measurements, and correlates the parameters to create a trend report capable of being displayed. However, Chio et al. discloses such a processor (36; Col. 9 line 44 – Col. 10, line 51). The Examiner maintains that the rejection of claims 1 – 12 and 14 – 24 over U.S. Patent No. 4,880,013 to Chio in view of U.S. Patent No. 5,899,855 to Brown is proper and renders the claims as unpatentable.

Conclusion

4. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jonathan ML Foreman whose telephone number is (703) 305-5390. The examiner can normally be reached on Monday - Friday 8:00 am - 4:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Max Hindenburg can be reached on (703) 308-3130. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 872-9306 for regular communications and (703) 872-9306 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0858.

JMLF
August 4, 2004

MAX F. HINDENBURG
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3700